

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, DECEMBER 1, 2009.

Board Members Present:

William C. Chase, Jr., Chairman

Larry Aylor, Vice-Chairman

Sue D. Hansohn

Steven E. Nixon

Brad C. Rosenberger

Tom S. Underwood

Steven L. Walker

Staff Present:

Frank T. Bossio, County Administrator

Roy B. Thorpe, Jr., County Attorney

John C. Egertson, Planning Director

Sam McLearen, Zoning Administrator

Donna Foster, Deputy Clerk

Barry Atchison, Assistant to the Deputy Clerk

CALL TO ORDER

Mr. Chase, Chairman, called the meeting to order at 7:00 p.m.

CITIZEN FORUM

Mr. Chase opened the Citizen Forum and called for comments on any item that was not on the agenda.

George Bryson, Jefferson District, addressed the Board relative to his concerns with the former Historical Society and its improper distribution of funds and noted that he was continuing with his law suit. He also discussed his concern that several old maps of Culpeper either did not show the Burgandine House at all or showed it in a different location than where it is currently located. He provided the Board with copies of the maps and explained that he wanted the history of the Town and County to be accurate and not based on false information.

Mark James stated he lived in the Stevensburg District and his shop and office were located in the Cedar Mountain District. He expressed his concern regarding the business equipment tax in Culpeper County, specifically how the current depreciation rate was set up. He explained that in hard economic times, he and other business owners kept their equipment longer because it cost too much to replace it with new equipment. He gave as an example that a piece of heavy equipment purchased 10 or 15 years ago for \$200,000 may be worth 10 percent of its original cost, but taxes were charged at 30 percent of the original cost and that continued until the equipment was sold or discarded. He said he was not against paying taxes, but did have an issue with paying taxes on an unfair amount.

Mr. Chase informed Mr. James that the Commissioner of the Revenue set the rates and value of machinery. Mr. James stated that he had spoken to the Commissioner of the Revenue. He also stated that he had researched surrounding counties and found they used many different depreciation rates, but a lot of counties had a declining rate of 10 percent per year.

Bill Corbin, Cedar Mountain District, asked the Board to consider modernizing Chapter 3 of the County Code covering events. He said he had observed there were many events being held on a continuous basis, some quarterly, and there were excellent models available for administering and pricing events. He suggested this would provide a good source of revenue for the County and thought such items as acid rain permitting should be considered.

With no further comments, Mr. Chase closed the Citizen Forum.

APPROVAL OF AGENDA

Mr. Chase called for additions and/or deletions to the agenda.

Mr. Aylor moved, seconded by Mr. Walker, to approve the agenda as presented.

Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker
Motion carried 7 to 0.

PUBLIC HEARING(S)

a. THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER ADOPTION OF THE CULPEPER COUNTY SHERIFF'S OFFICE TOWING POLICY

Roy Thorpe, County Attorney, explained the proposed policy was pursuant to Section 10-82 of the County Code which provided for the establishment of a Towing Board to review commercial towing operations of motor vehicles. He said that section authorized and directed the Towing Board to promulgate policies and procedures that would take effect following a public hearing before the Board of Supervisors, and the Board reserved the authority to amend, alter or repeal any provision of the rules and regulations so promulgated. He stated that Major Russell Lane, a member of the Towing Board, was present.

Major Lane stated that David Corbin and Rusty Crowe, members of the Towing Advisory Board, were also present and they would be glad to answer any questions.

Mr. Chase opened the public hearing and called for public comments.

David Williams, owner and operator of D & P Towing in Culpeper, expressed his concern that the heavy duty regulations were too rigid, especially in the current economy. He explained the tower was required to buy at least two pieces of heavy equipment at a minimum of \$250,000, or a total of \$500,000. He pointed out there were only four heavy duty tractor trailer wrecks last year, and the expenditure required to participate in the program was extremely steep. He noted that the surrounding counties, specifically Orange and Rappahannock Counties, required only one. He said that since Culpeper County did not have an interstate highway running through it, he felt that the current economy would not support the requirement for two heavy duty wreckers.

Mr. Chase questioned whether current policy required two heavy duty trucks. Mr. Thorpe replied that requirement was pursuant to the section on "Heavy-Duty Wreckers" on page 9 of the proposed policy that stated: "For those towers who desire to be on the Heavy-Duty Wrecker List, they shall own or lease purchase a minimum of two (2) towing/recovery trucks." He said on page 10 it stated that "(a) One truck shall have a minimum of sixty thousand (60,000) pounds rating; and (b) And the second shall have a minimum of forty thousand (40,000) pounds rating." He said the proposed policy would require two trucks for heavy-duty towing.

With no further comments, Mr. Chase closed the public hearing.

Mr. Underwood asked for clarification from the Towing Committee as to why two heavy-duty trucks were required. Major Lane agreed that four calls for towing were not a lot, but Committee members talked with other areas around the County and discussed the problems that ensued when one truck was sent out and could not set a tractor-trailer upright. He said if the incident occurred on the 29 Corridor it would have to be closed down until a second tower was called to the scene. He reminded the Board that the proposed policy was to regulate law-enforcement-requested towing only.

Mr. Underwood stated he understood from a law enforcement perspective, the roads needed to be cleared as soon as possible, but from the perspective of those who can provide the service, how many had two heavy-duty trucks. Major Lane replied that at the current time there were two: Tommy's Towing Service and Rosson & Troilo. Mr. Underwood asked whether there were towers with only one heavy-duty truck. Major Lane replied he could not answer that question.

Mrs. Hansohn was concerned that only towers with two trucks on the list could be called in the event of an accident. She inquired whether there were instances when only one truck would be needed. Major Lane replied that one truck would be adequate if there were a non emergency when the road was not closed down, but for a major thoroughfare, it would need to be cleared as quickly as possible.

Mrs. Hansohn questioned whether two different companies could be called to handle an accident versus calling only one with a heavy-duty truck. Major Lane replied that using two different companies would result in the problem of knowing which one would take responsibility. He reiterated that the policy was for law-enforcement-requested towing only.

Mr. Aylor commented that since the officer at the scene makes the judgment call whether one or two trucks would be needed, he could not support a policy that required two pieces of equipment. He asked whether towers were called on a rotation basis. Major Lane replied that they were. Mr. Aylor felt that whoever was on rotation that had a piece of equipment large enough could be called as the primary, and if an additional truck were required, the next tower could be contacted, but the primary tower would be responsible for billing, clearing the road, and getting equipment where it needed to be. He said he was looking for common ground that was fair to all of the towers.

Major Lane commented that with two separate wreckers called, one may have only two employees and would not have workman's comp. and one with three or more employees may be charged for an accident to the one without workman's comp.

Mr. Aylor asked whether both the primary wrecker and a subcontracted wrecker were required to have insurance. Major Lane replied that a tower with three or more employees would be required to have workman's comp. Mr. Aylor felt that anyone in that business without workman's comp would have some type of insurance cover. He said he could not support any policy that was detrimental to the small tower.

Mr. Nixon inquired how the Committee determined that two wreckers would be necessary. Major Lane replied that the requirement was recommended by the State Police member, the Committee discussed it and approved by a 5 to 2 vote.

Mr. Nixon agreed with Mr. Aylor that the small tower should also receive consideration. He asked how many large accidents occurred in Culpeper per year. Mr. Crowe replied that there was an average of five per year.

Mr. Nixon asked whether the small tower was being hurt by the requirement for one truck. Major Lane replied that he would not be affected since he would be on the light-duty tow list.

Mr. Nixon asked whether it would be impossible to have one tower come out and then use another tower as backup. Major Lane replied that law enforcement would make the call for assistance. Mr. Nixon asked whether an out-of-County tower could be called. Major Lane replied that would not be permitted.

Board members continued to debate the pros and cons of using two different towers and the ramifications of not having workman's comp.

Mr. Underwood stated that he had received several calls regarding the requirement for two heavy-duty trucks, and he believed that no tower with one truck supported the requirement. He said he had been informed that Culpeper was the smallest county that required two heavy-duty trucks even though it did not have an interstate highway, and that there were counties with four interstate highways that required only one heavy-duty truck. He asked whether Major Lane whether he knew why that had occurred. Major Lane replied that he did not have an answer.

Mr. Underwood asked what the requirements were for those with one truck. Mr. Crowe replied that Spotsylvania required one truck that was capable of lifting 40,000 or towing 80,000, that equated to a 20 ton wrecker. He explained that if Spotsylvania had a tractor trailer overturn, law enforcement would call a tower, and if the tower who responded needed assistance, he would call another tower he worked with.

Mr. Nixon pointed out that the second tower would be called out of rotation and he was getting business he would not have ordinarily received. Mr. Crowe pointed out that both towers would be on the rotation list, and he did not believe it was unfair since both were on the list and worked together.

Mr. Chase asked Mr. Crowe whether he agreed with the workman's comp discussion. Mr. Crowe replied that situation would be between the towers, and Culpeper County would not be held responsible.

Mr. Nixon asked whether towers could be required to have workman's comp.

Mr. Crowe stated he did not see a problem with having a requirement included in the policy.

Mr. Underwood suggested the problem of workman's comp could be solved by adding an "f." under Heavy-Duty Wreckers that required workman's comp. He felt that then the policy would allow one truck and would be more consistent with other counties, but towers should be made aware of the cost to carry workman's comp.

Mr. Rosenberger pointed out that the County did not have the right to require workman's comp.

Mr. Chase asked whether everyone was satisfied that only one truck would be required. Several members indicated they would prefer one truck.

Mr. Nixon asked how the Towing Board would react to the change to one truck. Major Lane replied he would bring it up at the next meeting.

Mr. Underwood pointed out that the Board had the authority to make a minor amendment to the policy. He commended the Towing Board on its work that was supported by the towers and law enforcement.

Mr. Underwood moved to approve the policy with a change on page 9 to require one heavy-duty truck rather than two, and on page 10, to strike the words in a. regarding one truck and require the one truck to have a minimum of 40,000 pound rating.

Mr. Aylor seconded the motion.

Major Lane asked that the motion clarify that if the requirement would be changed to read: "One truck with a minimum tow capacity of 80,000 pounds and a lift capacity of 40,000 pounds."

Both Mr. Underwood and Mr. Aylor agreed with the amendment.

Mr. Thorpe clarified that the change would read: "a. The truck shall have a minimum of forty thousand (40,000) pounds rating." He said that the following sentences would be re-lettered since a. was deleted, b. becomes a., c. becomes b., etc.

Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

b. THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER THE AMENDMENT OF CHAPTER 2 ADMINISTRATION, ARTICLE II, 'PLANNING COMMISSION' SECTION 2-17, OF THE CODE OF THE COUNTY OF CULPEPER, VIRGINIA

Mr. Egertson explained that the proposed amendment was recommended by the County Attorney in order that County Code would be consistent State Code. He said the State Code stipulated that Planning Commission terms should be four years, and, in fact, that was the practice the Board had been following; however, the County Code indicated a three-year term for Planning Commissioners.

Mr. Chase opened the public hearing and called for public comments. There were none, and Mr. Chase closed the public hearing.

Mr. Aylor moved, seconded by Mr. Nixon, to approve the proposed amendment to the County Code.

Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

NEW PLANNING COMMISSION BUSINESS – PUBLIC HEARING

CASE NO. U-2161-09-1. Request by David B. Carter for approval of a use permit for the outdoor display and/or storage associated with a retail business for lawn and garden equipment and subcompact tractors. The property is located on Route 29 in the Cedar Mountain Magisterial District and contains 7.7 acres. Tax Map/Parcel Nos. 50K(1)/1, 2 and 3.

Sam McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found that the proposed use permit request to be consistent with Articles 17 and 30 of the Zoning Ordinance with one condition: Lawn and garden equipment, compact tractors, and related items for retail sale may be displayed outdoor, in accordance with a site plan which must be approved in accordance with Article 20. Equipment on site to be repaired or for maintenance use must be stored in a location completely screened from view.

Mr. McLearen said the Planning Commission was recommending to the Board of Supervisors that the use permit be approved with the referenced condition.

Mr. Egertson explained that a use permit was required because the applicant's property was located in one of the County's protected entrance corridors. He presented several photographs of the existing building and the area where equipment would be displayed. He said the Planning Commission had approved with the condition that retail items would not be displayed outdoors and repair items would be stored inside or screened from view. He stated that the applicant had indicated no concerns with that condition, and it was being recommended for the Board's approval.

David Carter, applicant, was present to answer questions.

Mr. Chase opened the public hearing and called for public comments. There were none, and Mr. Chase closed the public hearing.

Mr. Aylor moved, seconded by Mrs. Hansohn, to approve the use permit as recommended by the Planning Commission with the stated condition.

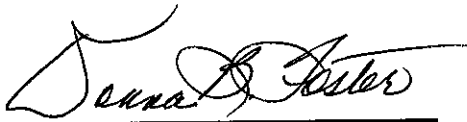
Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn. The Board adjourned at 8:48 p.m.



Donna B. Foster, MMC
Deputy Clerk



Brad Rosenberger, Chairman

ATTEST:



Frank T. Bossio
Clerk to the Board

Approved: January 5, 2010